

MENTAL HEALTH AND DISABILITY SERVICES COMMISSION

December 3, 2015 - 9:30 am to 3:00 pm
Urbandale Public Library, Meeting Room A
3520 86th St, Urbandale, Iowa
MEETING MINUTES

MHDS COMMISSION MEMBERS PRESENT:

Thomas Bouska
Thomas Broeker
Richard Crouch
Jody Eaton
Kathryn Johnson (phone)
Betty King
Sharon Lambert
Geoffrey Lauer

Brett McLain (phone)
John Parmeter
Rebecca Peterson
Michael Polich
Patrick Schmitz
Rebecca Schmitz
Marilyn Seemann
Jennifer Sheehan

MHDS COMMISSION MEMBERS ABSENT:

Senator Mark Costello
Marsha Edgington
Lynn Grobe

Representative David Heaton
Senator Liz Mathis
Representative Scott Ourth

OTHER ATTENDEES:

Theresa Armstrong	MHDS, Bureau Chief, Community Services and Planning
Bob Bacon	Center for Disabilities and Development
Jess Benson	Legislative Services Agency
Kris Bell	Iowa Senate Democrat Caucus Staff
Amy Campbell	Advocacy Cooperative
Marissa Eyanson	Easter Seals of Iowa
Jim Friberg	Department of Inspections and Appeals
Gayla Harken	Iowa Association of Community Providers
Rep. Lisa Heddens	Iowa House of Representatives
Rachele Hjelmaas	Legislative Services Agency
Sydney Kronkow	Legislative Liaison, Iowa Judicial Branch
Libby Reekers	Mental Health Advocate, Tama County
Deb Schildtroth	Story County Department of Community Services
Laura Stuns	Easter Seals of Iowa
Suzanne Watson	Southwest Iowa MHDS

Welcome and Call to Order

John Parmeter called the meeting to order at 9:30 am and led introductions. Quorum was established with ten members present, and two participating by phone. No conflicts of interest were identified for this meeting.

Approval of Minutes

Tom Bouska made a motion to approve the October 15 minutes as presented. Tom Broeker seconded. The motion passed unanimously.

Geoff Lauer said that the Health Policy Oversight Committee would have a hearing on the transition to IA Health Link, and there was an opportunity to submit public comment before the meeting. Geoff moved to provide a letter of comment from the Commission to the Health Policy Oversight Committee with a position on the transition to managed care. Betty King seconded the motion.

Discussion

Geoff said that he has spoken to many individuals regarding IA Health Link, and it seems that the overwhelming majority of people still have questions regarding which providers are in the networks of the Managed Care Organizations (MCO) or whether all four MCOs awarded contracts will be included in IA Health Link. Betty King said she shares Geoff's concerns, and that she has spoken to people who are concerned and afraid of the change. She spoke about her experience with the Assertive Community Treatment (ACT) Program, and the uncertainty her providers have with the upcoming changes.

Sharon Lambert said she has had difficulty speaking with the MCO her grandson had been assigned to because they did not have any documentation showing that she was his legal guardian.

Becky Schmitz said there had been a lengthy discussion at the Jefferson County Board Supervisors meeting. Their Public Health Director had to send a letter with a thirty day notice informing Medicaid members that there may be changes to their coverage, and that they may be responsible for paying fees connected to their services. Tom Bouska said he recalled that providers that were not signed with MCOs would be paid 90% of the Medicaid reimbursement rate in a fee for services structure.

Jody Eaton said that any comment from the Commission should include an alternative plan as the current system has had many of its workforce hired away by the MCOs. Kathy Johnson expressed concern with the possibility that some services may not be reimbursed without the MCOs as they are considered optional services. Kathy said that while there are readiness issues, a delay could have adverse effects as well.

Geoff Lauer said that he would like to see a sufficient delay to allow Medicaid members and consumers to make informed choices. Michael Polich said the Managed Care system is intended to support choices made by consumers and providers. Geoff Lauer asked if it would be possible to support the concept of IA Health Link as a concept, but still have concern over the process and timing of the implementation.

Geoff amended his motion to say that the Commission is supportive of person-centered managed care, but suggests a sufficient delay to allow stakeholders to make informed choices. Betty King accepted the amended motion.

Kathy Johnson expressed concern with the possibility of a gap in reimbursement for some services that Iowa Medicaid Enterprise (IME) does not cover. Jody Eaton echoed that concern and said that while some regions may be able to fill that gap, not all regions would be able to financially. Sharon Lambert said she was under the impression that IME would pay for services directly if there were a gap. Kathy Johnson said she has been told that there are services that are currently covered that are considered optional, and would not be paid for directly.

The motion passed unanimously, with Tom Bouska abstaining.

Legislative Priorities Committee Report – Geoff Lauer

Geoff Lauer presented the draft Legislative Priorities Document. Geoff said the committee met by conference call several times, and has worked to develop considered and positive recommendations.

Discussion

Priority 1.3: Tom Bouska clarified that the intent was not to supplant transportation services offered by Medicaid.

Priority 2.1: Tom Broeker added that MHDS Regions need predictable responsibilities as well as predictable funding, and suggested adding a bullet to that effect.

Priority 4.1 Kathy Johnson asked that the loan forgiveness program not be restricted to designated “Health Professional Shortage Areas” as all of Iowa is in need of additional mental health workforce.

The Commission voted unanimously to approve the Recommendations for Changes in Iowa Law for 2016 with the discussed friendly amendments.

MHDS/DHS Report – Theresa Armstrong

Theresa Armstrong said the Children’s Mental Health and Well-Being Workgroup was having its final meeting that day, and its final report to the General Assembly would be due on December 15.

The MHDS Regions have submitted their first annual reports as Regions. DHS is working to develop a dashboard to show how Regions are developing, and Theresa said she hoped that DHS would be able to add 2015 data to that dashboard in January.

Theresa said that Iowa has been awarded a planning grant for the Certified Community Behavioral Health Clinic program from the Substance Abuse and Mental Health Services Administration (SAMHSA). There are meetings being held between the twenty-four states that were awarded grants and SAMHSA to provide guidance and technical assistance. Of the twenty-four states given planning grants, only eight will receive demonstration grants beginning January 2017. DHS has a memorandum of understanding with the Department of Public Health to coordinate their preparation for this grant. DHS has also contracted with The University of Iowa Center for Disabilities and Development to provide the additional staffing needed for this project. There will be one fulltime staff, Julie Maas, in Des Moines who has already been hired as a project manager. DHS is meeting with provider groups who are interested in learning more about the grant and possibly applying to be one of the clinics participating in the demonstration.

DHS is continuing to work with hospitals on the CareMatch inpatient bed tracking system. Theresa said DHS is still calling providers and encouraging them to update their information at least once a day. Theresa said there is a stakeholder workgroup for the bed tracking system that includes representation from the Iowa Hospital Association, Law Enforcement, Regional leadership, and other users of the system. Theresa said DHS aims to have some initial findings from that group in mid-January to examine the needs for inpatient psychiatric beds in Iowa.

Michael Polich asked if there are capacity issues or needs. Theresa answered that there is an average of sixty-eight to seventy beds open, so it may not be a problem with capacity as much as having the right beds in terms of age, gender, and level of acuity.

Geoff Lauer asked if hospitals might show open beds so they could keep receiving referrals and have the right of refusal and keep their census up. Theresa answered that DHS is looking at information that would indicate if any of that behavior was happening. Many times, hospitals may report having a bed available, but may not have the staff for the bed.

Theresa said she wanted to follow-up on the Commission's interest in reviewing a portion of Chapter twenty-four rules regarding education and qualification guidelines for mental health crisis stabilization service staff. DHS is planning to have a meeting of a committee in late January. Theresa said currently, there are four applicants for accreditation as crisis stabilization service providers. Additionally, DHS is in the process of re-writing Division I of Chapter twenty-four for the past year. There have been several stakeholder groups with different provider groups to get input on the rules over the past year, and DHS would look to share draft rules with a committee from the Commission before presenting the rules to be noticed.

John Parmeter asked that the Commission revisit Chapter twenty-four in the afternoon.

Geoff Lauer asked for an update on the transition to IA Health Link. Theresa answered that CMS will be on site next week as part of the readiness review. Medicaid Director Mikki Stier and other people from IME are in communication with CMS daily.

Representative Lisa Heddens asked if IME is looking at providers' readiness for the transition, and expressed concern that some providers have lost staff and would not have the capacity to provide the same level of services. Theresa answered that much of this is part of the contracting process. Geoff Lauer said CMS would be meeting with providers while they are doing their onsite readiness review.

Representative Heddens asked if DHS is looking into issues with the member services phone lines as many people calling in are unable to reach member services representatives. Theresa said she would pass that concern along.

John Parmeter asked if CMS approval is required to continue with the transition to IA Health Link. Theresa answered that it was required as Iowa needed to apply for waivers in order to reorganize their Medicaid program this way. John asked what would happen if CMS declined to approve the waivers. Geoff Lauer answered that there would be a delay. Theresa clarified that there are contingency plans in case that happens. Theresa said that she is not privy to those contingency plans.

Kathy Johnson asked if IME would be able to pay for B-3 services, or clinical optional services that CMS currently does not cover. Theresa answered that this would be considered in IME's contingency plans.

John Parmeter asked what would be the best way to learn which MCOs their providers had signed with their providers. Theresa answered that members could call providers or the MCO's member services.

MHDS Regions Update – Suzanne Watson and Jody Eaton

Suzanne Watson introduced herself and said she asked representatives from each MHDS Region to submit a short update on how they are developing. Suzanne and Jody Eaton referred to the Summary of Region Progress handout.

Sharon Lambert asked how Central Iowa Community Services implemented their telepsychiatry program with the jails. Jody answered that the Region contracted with a provider and approached the jails and emergency departments about the program.

Jen Sheehan asked how Southwest Iowa MHDS handled calls from Nebraska. Suzanne answered that the Region contracted with Boy's Town, which is a national hotline. The phone system knows where the calls are coming from, and they can then be routed to appropriate lines. One difficulty is that area codes do not necessarily indicate where the call is coming from since people can have a cell phone, move, and keep their number with another area code.

Betty King asked how Southwest Iowa MHDS developed their assessment tool. Suzanne answered that they started with a mobile crisis screening tool that was already being used, and added to it with the help of a workgroup.

Geoff Lauer asked if there is a place where Regions' successful efforts are being catalogued and recorded. Suzanne answered that MHDS Region CEOs meet monthly and collaborate. They also have a protected website where they can post their projects and other Regions can see what is working. Geoff asked if they could share a level of commitment and funding for services supporting individuals with developmental disabilities, brain injuries, or physical disabilities in regions.

John Parmeter noted that many regions are using telepsychiatry to increase access, and asked if they had seen a downside of it. Suzanne answered that she had not heard of any downside.

Public Comment

Tom Bouska said that he received an email stating that IME has quadrupled the number of phone lines available for member questions.

Sharon Lambert said she believed that twenty-four hour isolation should be banned within the state of Iowa, and that she believes it is harmful to the individual.

A break was taken for lunch at 12:00 pm

The meeting resumed at 1:00 pm

Mental Health Advocate Rules – Jan Heikes

Jan Heikes said that HF 468 directed DHS, in consultation with current Mental Health Advocates (advocates) and stakeholders, to draft rules regarding a number of topics including but not limited to quarterly and annual reports, juvenile representation, grievance procedures, conflict of interest provisions, workforce coverage, confidentiality, minimum qualifications and educational requirements, caseload criteria, caseload audits, and quality assurance measures. Jan said the workgroup included advocates, representatives from counties, representatives from the court system, providers, and advocates. The rules have gone through a number of drafts, and have been reviewed by a small number of Commission members. They are being brought to the Commission to request that they be noticed.

Jan reviewed the Notice of Intended Action document.

Tom Broeker asked about regions sharing advocates. Patrick Schmitz said that in many cases, one county is the employer of record. Tom asked if there needed to be a 28E agreement between the counties detailing the terms of sharing an advocate. Jen Sheehan said some

counties have been using resolutions. Jan Heikes answered that advocates can be appointed in one or more counties, spanning one or more regions or one or more judicial districts.

Michael Polich asked if there was a recommended caseload for advocates. Jan answered that the workgroup did not feel there was sufficient evidence to recommend a number of cases for an advocate. There is a lot of variation currently, and a reasonable caseload could be different area-to-area based on the amount of travel required.

Sharon Lambert asked if this concerned individuals age seventeen and under. Patrick answered that this would be for individuals eighteen and over. There is a provision concerning children if they are not represented by an attorney or guardian ad litem. Sharon asked how the workgroup decided that individuals should have contact with an advocate within five days and a face-to-face meeting within fifteen days. Jan answered that those standards are established in Iowa Code. Sharon asked where legal guardians fit in with this interaction. Jan answered that advocates should have contact with legal guardians throughout the commitment process.

Betty King asked who is responsible for gathering the quality improvement information on the advocate. Jan answered that the county or counties employing the advocate would be responsible for collecting that information.

Representative Heddens asked what the counties' responsibilities in terms of training for the advocates. Jan answered that many of the topics listed had been previously discussed, and there could be training offered through the Iowa State Association of Counties (ISAC). Representative Heddens asked if counties would have a stakeholders committee for data collection or if there is a system they would need to submit data. Jan answered that the quality assurance information would be internal and does not need to be submitted to DHS. All counties and MHDS Regions already have the infrastructure to collect most of the information required by these rules, and the rest could be added into the system.

Tom Bouska asked if these rules could reduce the number of days allowed for advocates to have their first face-to-face meeting with an individual. Patrick Schmitz answered that they could not. A change in that policy would require a change in Iowa Code.

Geoff Lauer asked where the quality improvement information would be stored. Jan answered that quality assurance is an internal requirement.

Representative Heddens asked how the county responsibilities compare to what the responsibilities of the courts were before HF 468. Jan answered that there was not a single entity that advocates reported to before as they were employed by courts but paid by counties. There were no training or education requirements, there was not a requirement for a criminal background check before, but there were still policies on confidentiality. Representative Heddens expressed concern about the lack of definition for what "adequate advocate staff" meant. Jan answered that there was a lot of variation across the state in terms of number of cases and geographic area covered, and as a result, the workgroup was not comfortable defining "adequate staff" further. Patrick Schmitz said that the fifteen day standard could assist counties in determining adequate staff. If an advocate is unable to meet that standard, the county may need to hire an additional advocate so they can adequately serve the individuals in their area.

Kelly Yeggy is the mental health advocate for Polk, Jasper, and Marion counties. Kelly served on the workgroup that developed the draft rules. Kelly expressed concern with a number of provisions with the current draft rules. The concerns she identified were the following:

- The definition of “Conflict of Interest”, Kelly said the workgroup agreed to remove the portion that referred to serving two or more individuals who have a personal relationship. Kelly said advocates are professionals and can identify when a conflict of interest exists; representing an acquaintance or family-member should not automatically be considered a conflict of interest.
- Kelly said the current draft rules state that advocates cannot transfer a case to an advocate closer to the individual’s placement unless they have been there for more than six months.
- Under “Advocate Responsibilities”, Kelly said transferring documents in the court’s electronic file to another patient file is inefficient and time-consuming.
- Under “County Responsibilities”, In Code, it states that an advocate cannot be an officer or employee of an MHDS Region, or an officer or employee of a county performing duties for an MHDS Region. Kelly said that the workgroup was divided on whether these standards extended to advocates’ supervisors as well as the advocates themselves. Kelly said she strongly believes that if it is a conflict of interest to be an employee of an MHDS Region, it would also be a conflict of interest to be supervised by an employee of an MHDS Region.
- Kelly expressed dissatisfaction with the provisions regarding workforce coverage. Kelly said ensuring adequate coverage for an advocate’s caseload in cases of vacation, sick leave, or absence was one of the core portions of the legislation that directed DHS to develop these rules. Kelly said that workgroup agreed that counties were to contract with another advocate in case their advocate is absent, but this language was not included in the draft rules.
- Under “Data Collection”, Kelly said counties already submit some of the information required. Kelly said DHS has not answered how they would use commitment information, and that its submission would be unrealistic given how often it may change. Kelly said the intent of the legislation was not to submit any data to DHS.
- Under “Quality Assurance System”, Kelly said that reviews and evaluations should be done by counties. Kelly expressed concern that the requirements on what must be included in the annual quality assurance reviews would violate home rule, and that counties should be allowed to determine their own review procedures.

Kelly expressed disappointment in the development process for these rules. She said draft rules contain language that was never discussed in the workgroup, and that recommendations from the workgroup were not included. Kelly said that as a member of the workgroup and as someone who helped negotiate the bill that directed the rules’ development, she does not support the rules being approved by the Commission.

Jen Sheehan said her interpretation of the rule on court records being considered part of the advocate’s file was that having access to the court documents satisfied the standard of being part of the patient file. Kelly said the language is ambiguous.

Jody Eaton said quality assurance was not intended to review the employee, but to review the system. Jan added that the language with the requirement for annual review of the employee was removed.

Geoff Lauer asked if there were any intolerable flaws within the current draft of the rules. Kelly answered that the lack of a standard for workforce coverage was intolerable. Kelly said the main issue is when advocates are absent (on vacation or sick). Patrick said there is language in 25.105(8) that refers to “extended staff absences.” Kelly said the original standard was one week, and that she opposed that because it was too long. Michael Polich said that he felt that a quality assurance system would identify this gap, and that if a county was unable to provide adequate coverage, that they would take corrective action.

Kelly said she would be taking a vacation the following week, and that Polk County has a contract with the advocate in Dallas County to cover her caseload in her absence. Patrick Schmitz asked if there was anything in the draft rules that would prevent them from doing that in the future. Kelly answered that the workgroup wanted the issue of workforce coverage addressed in the rules.

Sydney Kronkow noted that the Judicial Branch was not part of the final review committee that approved the rules that were presented to the Commission.

Michael Polich asked if the Judicial Branch was opposed to the draft rules. Sydney answered that the Judicial Branch may have questions with regards to the rules regarding electronic documentation. She had submitted some suggested language to Jan Heikes, but the courts had not seen an updated draft of the rules before the Commission meeting.

Geoff Lauer asked what would happen if the rules were not noticed at this meeting. Theresa Armstrong answered that DHS would review the concerns that the Commission had and meet with representatives from the Judicial Branch again to ensure they would be comfortable with the language included in the rules. Currently, advocates are already employed by counties, and have been since July 1, 2015.

Libby Reekers is the mental health advocate from Tama County, and served on the workgroup that developed these draft rules. Libby said that she has a caseload of forty-seven in a county of 17,000 people, and that it is difficult to predict the changes. She said she felt the data would be easy to obtain through a system advocates are already using. Libby noted that the requirement for counties to provide training eliminated a concern advocates had about boards of supervisors possibly refusing to pay for training.

Sharon Lambert asked if an individual had to be under an inpatient commitment order to be represented by an advocate. Libby answered that advocates represent any individual under a civil commitment order whether they are inpatient or outpatient.

Sharon asked how advocates are notified of a commitment. Libby said they are notified by an electronic system from the courts.

Deb Schildroth, of Story County asked for clarification on 25.104(2) and the county grievance procedures. Theresa Armstrong answered that counties may have different grievance procedures, so rather than DHS mandating one, the advocate would need to supply the grievance procedure of the county employing them. Deb asked about the quality assurance system, and if it would be done by the region or the county. Jan Heikes said that some of the discussion was around the county being responsible for it, but it could be done regionally, but due to the separation between the advocate and the region, the responsibility needs to rest with the counties.

Becky Schmitz said her county is in the process of hiring a new advocate, and has been using these draft rules as guidelines. She asked if much may change in the process. Theresa Armstrong answered that even if the Commission notices the rules, there will still be a comment period, and changes made to final rules.

Rebecca Peterson asked if the quality assurance system would necessarily be evaluating both the system and the advocate. Patrick Schmitz answered that if there was a single advocate, it would be close to that. Deb Schildroth said that the quality assurance process in the rules does not resemble the evaluation of any other county employee.

Theresa Armstrong clarified that if the rules are noticed, they would be published for public comment, and DHS would review all comments submitted on the rules. Then they would come back to the Commission for final approval after that process.

Amy Campbell is a lobbyist who represents Polk County, and she spoke about her involvement in the development of this legislation. Amy expressed concern that the language with regard to workforce coverage was vague. Amy said that she had not seen the six month timeframe in the definition for "County where the individual is located" was not discussed in the development of the legislation. Jody Eaton said the timeframe came from some advocates who wanted to transfer cases, and some who didn't, and that this was to provide for consistency of representation. John Parmeter said his recollection of the discussion was a concern about changing advocates every time an individual went to a different county, and striking a balance between how long is long enough to know if the person will be out of the county for an extended period of time and a desire for continuity of advocate representation. Amy Campbell said she felt that language goes beyond what is authorized by the legislation. Patrick said that in 25.103(1), there is language allowing for the transfer of a case if another advocate could better represent the individual on a long-term basis, and there is no time constraint.

Tom Bouska moved to notice the rules on mental health advocates. Tom Broeker seconded the motion.

Betty King said she would like to see the advocates have more input into the rules. Sharon Lambert said that if the rules are noticed, the advocates would still have an opportunity to comment. Jen Sheehan said that those who have strong opinions would voice them in the comment period as well.

Becky Schmitz said that she would like to see them continue so the counties may have some guidance.

The vote to notice the rules passed unanimously.

Home Modification Assistance Program Plan – Geoff Lauer

Geoff said that the General Assembly instructed the Commission and the Aging and Disability Resource Centers (ADRCs) to work together in developing a plan for a home modification assistance program. Geoff served as the Commission representative, Mike Isaacson from the Waterloo Area Agency on Aging represented the ADRCs, and they were assisted by Len Sandler of the University of Iowa, who is knowledgeable about housing for people with disabilities, Theresa Armstrong from DHS, Ruth Thompson from the Iowa Department on Aging, Amy Harris from the Iowa Department of Revenue, and Terri Rosonke from the Iowa Finance Authority.

Geoff presented the draft Home Modification Assistance Program Plan to the Commission. Geoff said there was concern that this program would be administratively intensive by nature. There are many things that need to be verified for an assistance program to work. For this reason, the group felt it would be necessary to have local partners assist with the administration of the program.

Geoff said that the legislation mandated a plan for a grant and a tax credit. The group wanted to comply with those recommendations, but offered an additional recommendation to administer this program as a grant program to households with incomes of up to 400% of the federal poverty limit, and to not have a tax credit program on top of a grant program.

Michael Polich asked if there was a federal program like this. Geoff said there was something similar. Michael Polich asked where the funding for this program would come from. Geoff said there would be a general appropriation.

Geoff asked if there was a deadline to approve the report. Peter Schumacher answered that it is due on December 15, 2015.

Becky Schmitz moved the approval of the Home Modification Program Plan. Michael Polich seconded the motion. The motion passed unanimously.

Planning for the January Meeting

There was a request to have an update on the transition to IA Health Link.

Theresa Armstrong asked if the Commission wanted to form a committee to review Chapter 24 and assist DHS in the rewrite process. Patrick Schmitz, Michael Polich, Jen Sheehan, Rebecca Peterson, and Kathy Johnson expressed interest in serving on the committee.

Public Comment

There was no public comment offered.

The meeting was adjourned at 3:00 pm.

Minutes respectfully submitted by Peter Schumacher.